



violence (18 U.S.C. § 924(o) (Count 13). Graham was charged with two additional Hobbs Act robberies and two more violations of 18 U.S.C. § 924(c)) (Counts 5-8, 14-15). Jordan was charged with an additional violation of 18 U.S.C. § 922(g) and with possessing a sawed-off shotgun. (Counts 2-3).

The defendants filed numerous pre-trial motions to suppress evidence and to sever their trials. The district court denied these motions and they proceed to trial. The court granted Jordan's motion to dismiss Count 1 pursuant to Fed. R. Crim. P. 29(a). After several weeks of trial, the jury convicted both defendants on all remaining counts. The court sentenced Graham to 1,764 months imprisonment and sentenced Jordan to 864 months imprisonment.

2. Consistent with its usual practice, this Court has consolidated both Graham's and Jordan's appeal and has ordered them to file a single opening brief.

3. The appellants intend to challenge on appeal the government's use of historic cell tower location information that it obtained against the defendants without a warrant. This is an issue of first impression in this Circuit. The district court published a memorandum opinion on the issue that contains 12,742 words. Appellants will have to address all of the district court's reasoning in their opening brief. Responding to this memorandum opinion, as well as including a statement of facts and summary of the argument, would easily engulf all of the initially-allotted

14,000 words.

4. Other issues on appeal are necessarily defendant-specific. For example, Graham intends to argue on appeal that the defendants should have been severed for trial because they were pursuing mutually antagonistic defenses. The very fact that mutually antagonistic defenses is an issue on appeal means that the defendants are not going to be able to join every argument. Likewise, Jordan intends to argue on appeal that the district court improperly limited his right to testify on his own behalf. This issue is necessarily individual to him and not a joint issue for appeal. Nevertheless, both of those issues raise substantial due process rights that each defendant enjoys personally.

Undersigned counsel understands that the appeal will also contain several other issues that are also personal to a single appellant. Because the appellants must file a single opening brief, they must include all issues, even if relevant only to a single appellant.

5. Counsel for the government, Assistant U.S. Attorney Benjamin Block, does not oppose Appellants' request.

WHEREFORE, the appellants respectfully request that this Court grant the appellants' request and issue an Order permitting them to file an opening brief with 28,000 words.

Respectfully submitted this 28th day of May, 2013.

JAMES WYDA  
Federal Public Defender

/s/

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**CERTIFICATE OF SERVICE**

This is to certify that the foregoing Motion was filed via CM/ECF, which automatically sends notice of such filing to:

Benjamin Block, Esq.  
Assistant U.S. Attorney  
Office of the U.S. Attorney  
36 South Charles St., 4<sup>th</sup> Floor  
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on this 28<sup>th</sup> day of May, 2013.

/s/

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Meghan S. Skelton  
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